THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 26714 of 2007

Date: 14.12.2007

Between:

Abdul Irfan Amoodi.

..... PETITIONER

AND

The Assistant Estate Officer, (Lands), A.P. Housing Board, Office at Gruhakalpa Building, Opposite to Gandhi Bhavan, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 26714 of 2007

Order:

Assailing the orders dated 05.10.2007, passed by the III Additional Chief Judge, City Civil Court, Hyderabad, dismissing C.M.A. No. 29 of 2007, and confirming the orders dated 16.12.2006, passed by the Competent Authority (South and Central Divisions) under A.P. Housing Board Act, 1956 (for short 'the Act'), in Case No. 18/CA1/05, and directing the petitioner herein to vacate from the subject property and hand over the same to respondent No.1-Housing Board, the petitioner filed the present writ petition.

The petitioner claims to be the tenant of the premises bearing No. 15-5-830/1, admeasuring 68.18 Sq. Yards, situated at Afzalgunj, Hyderabad. His case is that earlier when respondent No.1-Housing Board called for his willingness for purchase of the said property at the rate of Rs.20,000/- per Sq. Yard, he submitted his consent letter dated 12.09.2003, and when no orders thereon had been passed, he filed a writ petition in W.P. No. 28064 of 2005, which was dismissed by this Court holding that the A.P. Housing Board cannot dispose of the property otherwise than public auction. Against the said orders, he preferred an appeal in W.A. No. 884 of 2006 and the same was also dismissed. Meanwhile, respondent No.1-Housing Board, treating the petitioner as encroacher of the said land, has filed a petition in Case No. 18/CA1/05 before the Competent Authority, under Sections 52 and 53 of the Act, seeking to evict him from the said land, and the Competent Authority under the Act, after considering the entire material on record and the observations made by this Court in W.P. No. 28064 of 2005 as

well as in W.A. No. 884 of 2006, wherein it was held that the A.P. Housing Board cannot sell the property privately, but it can be done by public auction only, allowed the said case, by order dated 16.12.2006. Against the said orders, the petitioner filed appeal in C.M.A.
No. 29 of 2007 before the III Additional Chief Judge, City Civil Court, Hyderabad, which was dismissed by reason of the order impugned herein, and confirmed the orders passed by the Competent Authority under the Act and directed the petitioner herein to vacate the property within 60 days from the date of that order. Assailing the said orders, the petitioner filed the present writ petition.

Having heard the learned counsel for the petitioner and the learned Standing Counsel for respondent No.1-Housing Board, and having perused the orders impugned herein, I find no reason whatsoever to interfere with the same.

Both the Competent Authority under the Act, as well as the III Additional Chief Judge, City Civil Court, Hyderabad, after considering the entire material on record and the observations made by this Court in W.P. No. 28064 of 2005 and in W.A. No. 884 of 2006, wherein it was held that the A.P. Housing Board cannot sell the property privately, but it can be done by public auction only, directed the petitioner herein to vacate from the subject property and hand over the same to respondent No.1-Housing Board, and I see no reason to interfere with the same, in exercise of jurisdiction under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed. However, at the request made by the learned counsel for the petitioner, three months time is granted to the petitioner from today to vacate from the subject property and hand over the same to respondent No.1-Housing Board. Learned Standing Counsel for respondent No.1-Housing Board submits that immediately after the petitioner vacating the subject property, they are going to sell the same through a public auction, by following the procedure prescribed under law. In that event, it is open for the

petitioner to participate in the said auction. No costs.

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N.V. RAMANA, J.

Date: 14.12.2007
Nsr